

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

TEAMSTERS LOCAL 760,

Complainant,

vs.

CHELAN PUBLIC HOSPITAL DISTRICT 2,

Respondent.

CASE 24820-U-12-6336

DECISION 11396 - PECB

PRELIMINARY RULING AND
ORDER OF PARTIAL DISMISSAL

On May 22, 2012, Teamsters Local 760 (union) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming Chelan Public Hospital District 2 as respondent. The complaint was reviewed under WAC 391-45-110,¹ and a deficiency notice issued on May 31, 2012, indicated that it was not possible to conclude that a cause of action existed at that time. The union was given a period of 21 days in which to file and serve an amended complaint or face dismissal of the complaint. The union filed a timely amended complaint.

The Unfair Labor Practice Manager dismisses defective allegations of the amended complaint for failure to state a cause of action, and finds a cause of action for other allegations of the amended complaint, as more fully set forth below in the preliminary ruling. The employer must file and serve its answer to the amended complaint within 21 days following the date of this Decision.

DISCUSSION

The allegations of the complaint concern employer interference with employee rights in violation of RCW 41.56.140(1), by threats of reprisal or force or promises of benefit made to all bargaining unit members, in changing the status quo under WAC 391-25-140(2).

¹ At this stage of the proceedings, all of the facts alleged in the complaint are assumed to be true and provable. The question at hand is whether, as a matter of law, the complaint states a claim for relief available through unfair labor practice proceedings before the Public Employment Relations Commission.

The deficiency notice pointed out the defects to the complaint.

WAC 391-45-050(2) (rule) requires complaints to contain “Clear and concise statements of the facts constituting the alleged unfair labor practices, including times, dates, places and participants in occurrences.” The statement of facts merely alleges that “The [employer] has modified employee pay, work schedules, and job descriptions and duties.” This statement offers only a legal conclusion and does not provide sufficient factual information under the rule to support a preliminary ruling that an unfair labor practice could be found.

Amended Complaint

The amended complaint alleges:

- At a staff meeting on May 16, 2012, start times were modified, new meetings were introduced, and new additional duties were assigned;
- “Position Description” was revised on May 1, 2012; and
- Raynor Baker’s pay was changed in “late September or early October of 2011.”

The complaint was filed on May 22, 2012. Under RCW 41.56.160(1), any allegations subject to remedial action by the Commission must have occurred on or after November 22, 2011. The allegations concerning Raynor Baker’s pay are untimely and are dismissed.

The only information on the alleged change regarding the position description is an attached position description. This does not provide sufficient information to state a cause of action, and that allegation is dismissed.

NOW, THEREFORE, it is

ORDERED

1. Assuming all of the facts alleged to be true and provable, the following allegations of the amended complaint state a cause of action:

Employer interference with employee rights in violation of RCW 41.56.140(1), by threats of reprisal or force or promises of benefits made to all bargaining unit members, in changing the status quo under WAC 391-25-140(2) through its actions on May 16, 2012, regarding start times, new meetings, and new additional duties.

Those allegations will be the subject of further proceedings under Chapter 391-45 WAC.

Chelan Public Hospital District 2 shall:

File and serve its answer to the allegations listed in Paragraph 1 of this Order, within 21 days following the date of this Order.

An answer shall:

- a. Specifically admit, deny or explain each fact alleged in the amended complaint, as set forth in Paragraph 1 of this Order, except if a respondent states it is without knowledge of the fact, that statement will operate as a denial; and
- b. Assert any affirmative defenses that are claimed to exist in the matter.

The answer shall be filed with the Commission at its Olympia office. A copy of the answer shall be served on the attorney or principal representative of the person or organization that filed the amended complaint. Service shall be completed no later than the day of filing. Except for good cause shown, a failure to file an answer within the time specified, or the failure to file an answer to specifically deny or explain a fact alleged in the amended complaint, will be deemed to be an admission that the fact is true as alleged in the amended complaint, and as a waiver of a hearing as to the facts so admitted. WAC 391-45-210.

2. The allegations of the amended complaint in Case 24820-U-12-6336 concerning employer interference with employee rights in violation of RCW 41.56.140(1), in changing the status quo under WAC 391-25-140(2), by changing pay for Raynor Baker, and revising a position description on May 1, 2012, are DISMISSED for failures to state causes of action.

ISSUED at Olympia, Washington, this 19th day of June, 2012.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

A handwritten signature in cursive script, appearing to read "David I. Gedrose".

DAVID I. GEDROSE, Unfair Labor Practice Manager

Paragraph 2 of this order will be the final order of the agency on any defective allegations, unless a notice of appeal is filed with the Commission under WAC 391-45-350.



PUBLIC EMPLOYMENT RELATIONS COMMISSION

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PUBLIC EMPLOYMENT RELATIONS
COMMISSION



BY: /S/ ROBBIE DUFFIELD

CASE NUMBER: 24820-U-12-06336 FILED: 05/22/2012 FILED BY: PARTY 2
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